

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 8-9, 2004

Reference No.: 2.4a.  
Action Item

From: CINDY MCKIM  
Acting Chief Financial Officer

Prepared by: Brice D. Paris  
Division Chief  
Right of Way

Ref: APPEARANCE

## RECOMMENDATION:

The Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity C-18965, which is the subject of this Appearance. The summary below identifies the location of and designates the nature of the property rights covered by the Resolution of Necessity. In accordance with statutory requirements, the owners have been advised that the Department is requesting a resolution at this time. Adoption of Resolution of Necessity C-18965 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-18965 - Michael L. & Charlene Moule Trustees, et al.

03-Pla-49-PM 4.65 - Parcel 32845-1,2 - EA: 0A4109 - Certification Date: 11/01/04 - RTL Date: 02/01/05 - (Access controlled highway - operational improvements). Authorizes condemnation of a permanent easement for highway purposes, and a temporary easement for construction purposes. Located in the city of Auburn at 1015 Nevada Street.

## SUMMARY OF ISSUES

The property owner expressed concerns regarding the effect of the project upon his business during and after construction. The owner leases adjacent property to other businesses that share common access and a large parking lot. Concerns were generally about loss of business and compensation for damages.

**Owner Concern 1, Construction impact:** The owner expressed concern that construction will interrupt business on the property.

***Response:*** Construction at the owner's business site will take place only during evening hours when the business is closed.

**Owner Concern 2, Traffic congestion on the business property:** The owner believes that reduced driveway access at the frontage on Edgewood Street will cause traffic congestion. Further, The owner is concerned that traffic will cross the parking lot in order to avoid a queue that will form at the Nevada Street intersection.

***Response:*** A concrete corner sidewalk pad with curb, ADA access ramp and signalization was redesigned to minimize the property area needed as a permanent easement near the existing driveway on Edgewood Road. Portions of the property area now being used for driveway purposes encroach within the State's existing access control line by several feet. The highway project will have minimal additional effect to the currently legal and useable driveway width on Edgewood Drive. The project design will facilitate traffic flow in the vicinity of Edgewood Road and Nevada Street. An auxiliary lane and improved channelization on Southbound Highway 49 will reduce congestion in the vicinity of the owner's property.

**Owner Concern 3, Parking:** The owner contends that loss of parking during the period of the proposed temporary construction easement will impact his business. He believes two parking spaces will be permanently lost due to project impacts near the entrance to his commercial property.

***Response:*** Terms of the Temporary Construction Easement were changed so that construction activity on the owner's parking area will take place only between 6:00 PM and 6:00 AM during off-business hours. Present access from Edgewood Road is limited by proximity of the commercial building to the existing intersection of Highway 49 and the previously acquired access control along Highway 49 and Edgewood Road. Access will not be denied by this project. Legal and physical access to the parcel remains substantially unchanged after construction.

Loss of business goodwill claim forms have been provided to the owner.

**Owner Concern 4, Compensation for Damages:** The owner feels the State's offer of compensation is too low and does not compensate for loss of business income.

***Response:*** The Commission will not hear compensation issues. The owner may file a claim for compensation for loss of business goodwill.

Attachments

**Resolution of Necessity Appearance Fact Sheet**

**PROJECT DATE:**

Project: 03-PLA-49-PM 3.27 / 7.4, EA 0A4109

Location: State Highway 49, Placer County

Limits: Between Chana Drive and Quartz Drive in the County of Placer.

Contract Limits: Between I-80 @ Highway 49 and 300 meters beyond Quartz Drive.  
Cost: \$5,861,000

Funding Source: STIP-RIP and Locally Generated Funds.

Number of Lanes: Existing: 4 lanes mixed flow  
Proposed: 4 lanes mixed flow plus auxiliary lanes

Proposed  
Major Features: Interchanges: None within project limits  
Other: Auxiliary Lanes

Traffic: Existing (2004): ADT varies from 29,600 to 44,200  
Proposed (2025): ADT 82,400

**PARCEL DATA:**

Property Owner: Michael L. and Charlene Moule Trust

Parcel Location: West side of Highway 49, at the intersection of Highway 49 and Edgewood Road, near Auburn.

Present Use: Commercial

Area of Property: Total area of larger parcel: 1.64 acre

Area Required: Parcel 032845-1: 122 s.f. Highway Easement  
Parcel 032845-2: 1,370 s.f. Temporary Construction Easement

## **RESOLUTION OF NECESSITY CONDEMNATION PANEL REPORT**

The Resolution of Necessity Condemnation Panel met at the North Region facility in Marysville on October 7, 2004, at 1:00 PM. The owner did not attend despite an invitation letter sent September 28, 2004 and several subsequent phone calls. Panel members included Vern Rhinehart, Division of Right of Way and Land Surveys; Linda Fong, Division of Design; and Rich Williams, Headquarters Legal Office.

### **OWNER'S CONCERNS AND DEPARTMENT RESPONSES**

Right of Way Agent Melani Millard presented the property owners' concerns as Mr. Moule stated them to her during communications leading to the 1st Level Review. In a letter to the Executive Director of the California Transportation Commission (Commission), dated August 12, 2004, the property owner contended that:

- (A) a proposed sidewalk and signal pole would bottleneck an already constricted access to the property from Edgewood Drive;
- (B) the access problem would congest business and through traffic on the property in front of the owner's place of business;
- (C) the project would increase speed and cause more accidents at the intersections as traffic attempts to enter and exit Highway 49;
- (D) additional traffic congestion would occur along the frontage of his property from the improved intersection of Edgewood Drive and Highway 49;
- (E) personal costs would be incurred in reestablishment of utility service to his property during construction;
- (F) the project would cause the loss of two parking spaces to the project footprint;
- (G) damage from construction to the owner or his customers must be compensated; and
- (H) negative affects of the proposed project upon his property.

The Department has responded accordingly as listed above, to all the owner's concerns:

- (A) The Department has redesigned the concrete pedestrian pad at the corner of Edgewood Road and Highway 49 to minimize the required area of easement.
- (B) The proposed additional lane and signalization is designed to reduce queued traffic.
- (C&D) The project in the area of Nevada Street and Edgewood Road is designed to improve traffic flow and safety by providing an additional lane and exit at Nevada Street.
- (E) Undergrounding of utilities along Highway 49 is a separate County project. Owner should address this issue with Placer County.
- (F) Redesign of the proposed concrete corner sidewalk pad at Edgewood Drive has minimal impact to the parking area.
- (G&H) Alternative alignment of the project would require an eastward shift of right of way into a slope on the east side of Highway 49 and require extensive retaining walls. A large project cost increase would result which prohibits adopting the alternate alignment.

Compensation claim issues are outside the Commission's jurisdiction.

## **NEED FOR PROJECT**

The project as planned will improve traffic safety and operations on Highway 49 between Chana Drive in Auburn and Quartz Drive in Placer County. Channelization and intersection widening are the main project features. Five intersections on this segment of Highway 49 presently operate at or near capacity. Without improvements these intersections will operate at service level "F."

Current Annual Average Daily Traffic (AADT) varies between 29,600 and 44,200 but is expected to increase to 82,400 by 2025. The fatal accident with injury rate is 1.38 for this highway segment compared to 0.68, the state average. Fatal accident percentage is 0.026 compared to 0.021 statewide. Rear end collisions are the most frequent type, attributed to the stop-and-go nature of congested traffic. Average speed tends to be low, < 45 MPH due to posted speed limits and congestion.

The project was originally funded in 1998 as part of the State Transportation Improvement Program-Regional Improvement Program (STIP-RIP) and was amended in 2002. Local government funds from the City of Auburn and Placer County have been paid to the Department under cooperative agreement. Right of way work is in progress using these funds.

## **PROJECT PLANNING AND LOCATION**

The "no-build" alternative was considered and rejected since congestion and safety issues are expected to worsen over time without the project. The present project alignment was selected based on the least impact to local businesses and costs compared to public benefit. Deviation from the proposed alignment would further impact commercial properties and increase costs substantially.

Project features include a SB right turn lane and lengthening a NB turning lane at Fulweiler Avenue; a SB right turn lane at Palm Avenue; striping dual EB left turn lanes at Nevada Street; shoulder widening and provisions for U-turn from Edgewood Drive to north of Holly Vista Way; Dual SB lanes and EB acceleration lane at Luther Road; SB auxiliary lanes from Hulbert Way to Willow Creek Drive; SB auxiliary lane from north of Edgewood Drive to Nevada Street; NB acceleration lane at Atwood Road; a raised median from Atwood Road to Willow Creek Drive; and extension to Locksley Lane from Quartz Drive (signal relocation and road approach).

Environmental Categorical Exclusion was approved April 30, 2004. Project capital costs are \$5,861,000. Advertising is scheduled for February 2005.

## **NEED FOR THE PARCEL**

Realignment of Highway 49 eastward away from the subject property is impractical due to increased costs and the need to construct a retaining wall and drainage modifications. A concrete curb, signalization and ramp modification for ADA access at Edgewood Drive will be placed at the corner of Edgewood Drive and Highway 49 as part of the intersection widening. A permanent easement is needed for the area of the concrete pad. A temporary construction easement will facilitate excavation work and construction of a 3.6m (12ft.) lane and 2.4m (8 ft.) shoulder in the existing right of way.

### **STATUTORY OFFER**

The Department has appraised the easement interest of the subject property and offered the full amount of the appraisal to the property owners of record in compliance with Government Code Section 7267.2.

### **PANEL RECOMMENDATION**

The panel has concluded that the Department is in compliance with Section 1245.230 of the Code of Civil Procedure in that:

- The public interest and necessity require the proposed project;
- The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- The property to be condemned is necessary for the proposed project;
- An offer to purchase in compliance with Government Code Section 7267.2 has been made to the owners of record.

The panel recommends submitting a Resolution of Necessity to the California Transportation Commission.

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VERNON V. RHINEHART, Chief  
Office of Project Delivery  
Division of Right of Way  
Panel Chair

I concur with the panel's recommendation:

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J. MIKE LEONARDO  
Acting Chief Engineer

**Persons Attending the 2nd Level Review, October 7, 2004:**

Michael & Charlene Moule Trust:

None

Department of Transportation:

Vern Rhinehart – HQ Right of Way, Panel Chair

Linda Fong – HQ Design, Panel Member

Richard B. Williams– HQ Legal, Panel Member

Patrick Bishop- Design Engineer

Barbara Reenan- Office Chief, District 3 Design

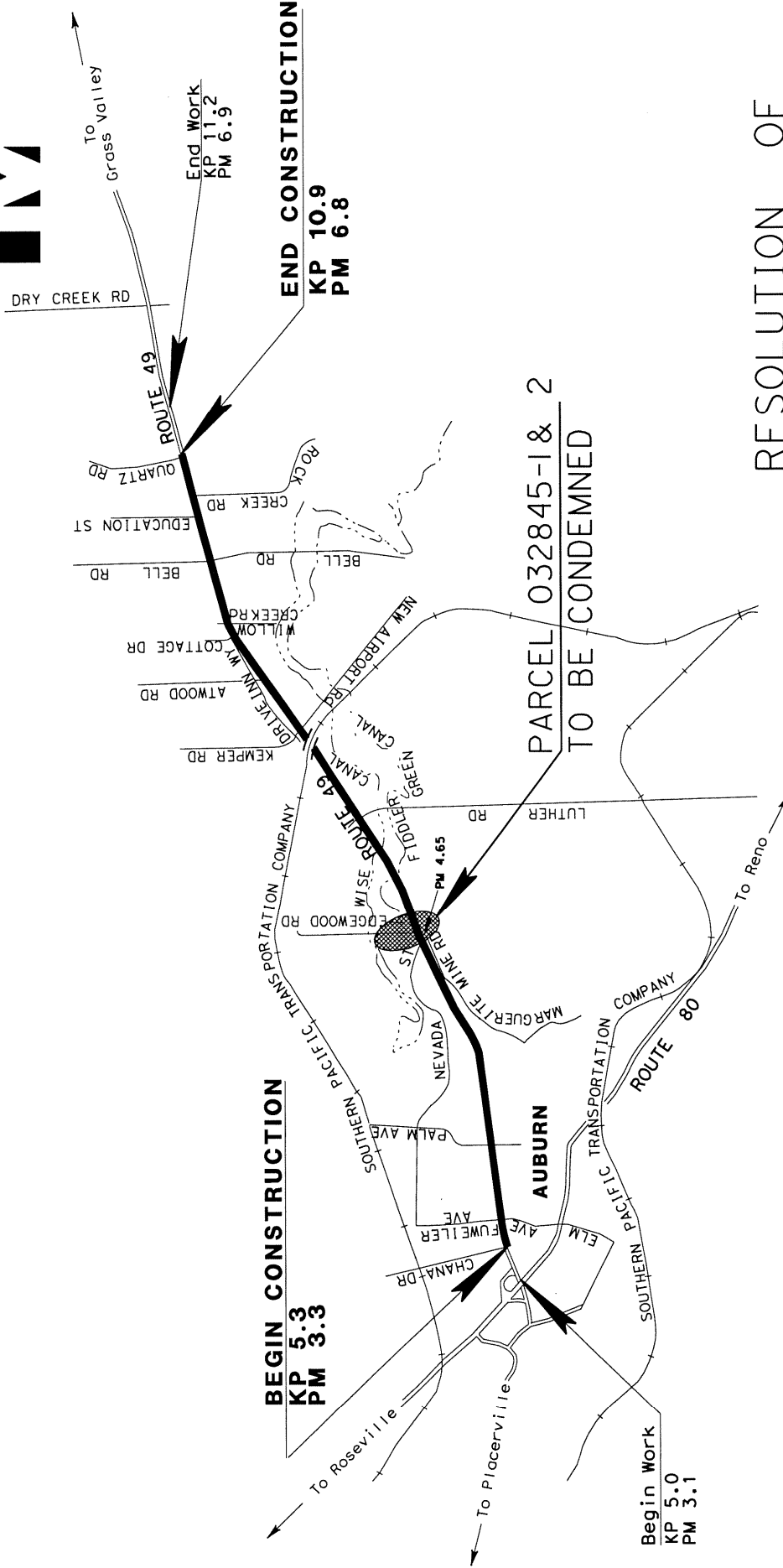
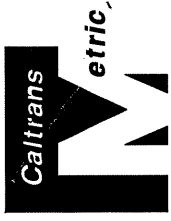
Brenda Schimpf- District 3 Project Planning Manager

Lindy Lee-Lovell- Deputy Director for R/W, District 3

Debbie Moreno- District 3 Right of Way Manager

Melani Millard – District 3 Right of Way

Chuck Carrillo –HQ



# RESOLUTION OF NECESSITY MAP



DIST	COUNTY	ROUTE	KILOMETER POST POST MILE	DRAWING NUMBER
03	PLA	49	7.48/4.65	C-OA410-2.0



EXHIBIT B

## SEC. 4 Highway County

## SEC. 4

MICHAEL L &amp; CHARLENE

/TR MOULE 038-121-042

PARCEL 032845-1

Existing State  
Slope Easement

PARCEL 032845-2

47° 55" E  
45.200

$$R = 3677.931$$
 $\nabla$ 

$L = 5.162$

$$R = 97.507$$

L-35.19  
 D-367A7

$$R = 3674.793$$
$$\Delta = 0^{\circ}33'25''$$
$$L = 3.351$$

**ICC-7**

$$R = 3674.195$$

POB-1

26

R = 3657.059

KP 7.48-

$$\Delta = 8^{\circ}23'07''$$

# TO GRASS VALLEY

← TO AUBURN

$$R = 3638.227$$

# RESOLUTION OF NECESSITY MAP



DIST	COUNTY	ROUTE	KILOMETER POST POST MILE	DRAWING NUMBER
03	PLA	49	7.48/4.65	C-0A410-2.1

Year	1990	1995	2000	2005	2010	2015	2020
Population (millions)	10	15	20	25	30	35	40